



STATE OF ARIZONA

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GOVERNOR

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April 21, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1236; Homeopathic Board; Omnibus

Dear President Bee,

Today I signed into law Senate Bill 1236, a bill that introduces greater discipline in the regulation and licensing of homeopathic physicians in Arizona. Under this new law, licensed homeopathic physicians must now complete 20 hours of continuing medical education annually, like other licensed physicians. In addition, licensed homeopathic physicians whose licenses are revoked must correct the conduct that was the subject of the disqualification or revocation, make legal restitution and wait through a five-year waiting period before reapplying for an Arizona license. These are among some of the improvements to the regulation of homeopathic physicians introduced by Senate Bill 1236.

Senate Bill 1236 also diminishes the discretion of the Board of Homeopathic and Integrated Medicine Examiners in a number of different ways: eliminating the Board's authority to waive the licensure examination requirement, revoking the Board's discretion to decide what minor surgeries a licensed homeopathic physician may perform, and deleting the Board's jurisdiction to accredit educational institutions in Arizona that grant homeopathic degrees. The message behind such changes is loud and clear. The public is losing faith in the Board's judgment and vigilance as a self-regulating organization.

Most homeopathic physicians in Arizona are careful, well-trained physicians dually licensed in good standing as medical doctors or doctors of osteopathy. But widespread reports of the few licensed homeopaths who have been a discredit to the profession, the dire consequences to their patients and the Board's lack of swift and stern disciplinary action have culminated in a crisis of public confidence in the Board's judgment.

The Board needs to respond to this crisis of confidence during this next two-year extension of its existence with greater monitoring of licensed homeopathic physicians and less

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patience with applicants who have violated ethical, medical or regulatory restrictions in Arizona or in other jurisdictions. It has been suggested that a lack of resources has contributed to limit the Board's investigative and monitoring abilities. To that, I reiterate my suggestion to merge at least the administrative functions of the Board of Homeopathic and Integrated Medicine Examiners with an umbrella administrative organization for healthcare specialty boards.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a stylized flourish at the end.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Tom O'Halleran

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 57

SENATE BILL 1236

AN ACT

AMENDING SECTIONS 32-1407, 32-1806 AND 32-1904, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, TO "BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS"; AMENDING SECTIONS 32-2901, 32-2902, 32-2904, 32-2906, 32-2911, 32-2912, 32-2913, 32-2914, 32-2915, 32-2916, 32-2933 AND 32-2934, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 29, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2936; AMENDING SECTION 41-1092, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1407, Arizona Revised Statutes, is amended to
3 read:

4 32-1407. Jurisdiction arbitration panel

5 A. When the board receives a complaint concerning a physician who is
6 also licensed pursuant to chapter 29 of this title, the board shall
7 immediately notify the board of homeopathic medical AND INTEGRATED MEDICINE
8 examiners. If the boards disagree and if both boards continue to claim
9 jurisdiction over the dual licensee, an arbitration panel shall decide
10 jurisdiction pursuant to section 32-2907, subsections B, C, D and E.

11 B. If the licensing boards decide without resorting to arbitration
12 which board or boards shall conduct the investigation, the board or boards
13 conducting the investigation shall transmit all investigation materials,
14 findings and conclusions to the other board with which the physician is
15 licensed. The board or boards shall review this information to determine if
16 disciplinary action shall be taken against the physician.

17 Sec. 2. Section 32-1806, Arizona Revised Statutes, is amended to read:

18 32-1806. Jurisdiction arbitration panel

19 A. When the board receives a complaint concerning a physician who is
20 also licensed pursuant to chapter 29 of this title, the board shall
21 immediately notify the board of homeopathic medical AND INTEGRATED MEDICINE
22 examiners. If the boards disagree and if both boards continue to claim
23 jurisdiction over the dual licensee, an arbitration panel shall decide
24 jurisdiction pursuant to section 32-2907, subsections B, C, D and E.

25 B. If the licensing boards decide without resorting to arbitration
26 which board or boards shall conduct the investigation, the board or boards
27 conducting the investigation shall transmit all investigation materials,
28 findings and conclusions to the other board with which the physician is
29 licensed. The board or boards shall review this information to determine if
30 disciplinary action shall be taken against the physician.

31 Sec. 3. Section 32-1904, Arizona Revised Statutes, is amended to read:

32 32-1904. Powers and duties of board; immunity

33 A. The board shall:

34 1. Make bylaws and adopt rules that are necessary for the protection
35 of the public and that pertain to the practice of pharmacy, the
36 manufacturing, wholesaling or supplying of drugs, devices, poisons or
37 hazardous substances, the use of pharmacy technicians and support personnel
38 and the lawful performance of its duties.

39 2. Fix standards and requirements for the registration and
40 reregistration of pharmacies, except as otherwise specified.

41 3. Investigate compliance as to the quality, label and labeling of all
42 drugs, devices, poisons or hazardous substances and take action necessary to
43 prevent the sale of these if they do not conform to the standards prescribed
44 in this chapter, the official compendium or the federal act.

1 4. Enforce its rules. In so doing, the board or its agents have free
2 access at all reasonable hours to any pharmacy, manufacturer, wholesaler,
3 nonprescription drug permittee or other establishment in which drugs,
4 devices, poisons or hazardous substances are manufactured, processed, packed
5 or held, or to enter any vehicle being used to transport or hold such drugs,
6 devices, poisons or hazardous substances for the purpose:

7 (a) Of inspecting the establishment or vehicle to determine if any of
8 the provisions of this chapter or the federal act are being violated.

9 (b) Of securing samples or specimens of any drug, device, poison or
10 hazardous substance after paying or offering to pay for such sample.

11 (c) Of detaining or embargoing a drug, device, poison or hazardous
12 substance in accordance with section 32-1994.

13 5. Examine and license as pharmacists and pharmacy interns all
14 qualified applicants as provided by this chapter.

15 6. Issue duplicates of lost or destroyed permits on the payment of a
16 fee as prescribed by the board.

17 7. Adopt rules for the rehabilitation of pharmacists and pharmacy
18 interns as provided by this chapter.

19 8. At least once every three months, notify pharmacies regulated
20 pursuant to this chapter of any modifications on prescription writing
21 privileges of podiatrists, dentists, doctors of medicine, registered nurse
22 practitioners, osteopathic physicians, veterinarians, physician assistants,
23 optometrists and homeopathic physicians of which it receives notification
24 from the board of podiatry examiners, board of dental examiners, Arizona
25 medical board, board of nursing, board of osteopathic examiners in medicine
26 and surgery, veterinary medical examining board, ARIZONA regulatory board of
27 physician assistants, board of optometry or board of homeopathic medical AND
28 INTEGRATED MEDICINE examiners.

29 B. The board may:

30 1. Employ chemists, compliance officers, clerical help and other
31 employees and provide laboratory facilities for the proper conduct of its
32 business.

33 2. Provide, by education of and information to the licensees and to
34 the public, assistance in the curtailment of abuse in the use of drugs,
35 devices, poisons and hazardous substances.

36 3. Approve or reject the manner of storage and security of drugs,
37 devices, poisons and hazardous substances.

38 4. Accept monies and services to assist in the enforcement of the
39 provisions of this chapter from other than licensees:

40 (a) For performing inspections and other board functions.

41 (b) For the cost of copies of the pharmacy and controlled substances
42 laws, the annual report of the board, and other information from the board.

43 5. Adopt rules for professional conduct appropriate to the
44 establishment and maintenance of a high standard of integrity and dignity in
45 the profession of pharmacy.

1 6. Grant permission to deviate from a state requirement for
2 experimentation and technological advances.

3 7. Adopt rules for the training and practice of pharmacy interns,
4 pharmacy technicians and support personnel.

5 8. Investigate alleged violations of this chapter, conduct hearings in
6 respect to violations, subpoena witnesses and take such action as it deems
7 necessary to revoke or suspend a license or a permit, place a licensee or
8 permittee on probation or warn a licensee or permittee under this chapter or
9 to bring notice of violations to the county attorney of the county in which a
10 violation took place or to the attorney general.

11 9. By rule, approve colleges or schools of pharmacy.

12 10. By rule, approve programs of practical experience, clinical
13 programs, internship training programs, programs of remedial academic work
14 and preliminary equivalency examinations as provided by this chapter.

15 11. Assist in the continuing education of pharmacists and pharmacy
16 interns.

17 12. Issue inactive status licenses as provided by this chapter.

18 13. Accept monies and services from the federal government or others
19 for educational, research or other purposes pertaining to the enforcement of
20 this chapter.

21 14. By rule, except from the application of all or any part of this
22 chapter any material, compound, mixture or preparation containing any
23 stimulant or depressant substance included in section 13-3401, paragraph 6,
24 subdivision (b) or (c) from the definition of dangerous drug if the material,
25 compound, mixture or preparation contains one or more active medicinal
26 ingredients not having a stimulant or depressant effect on the central
27 nervous system, provided that such admixtures are included in such
28 combinations, quantity, proportion or concentration as to vitiate the
29 potential for abuse of the substances that do have a stimulant or depressant
30 effect on the central nervous system.

31 15. Adopt rules for the revocation, suspension or reinstatement of
32 licenses or permits or the probation of licensees or permittees as provided
33 by this chapter.

34 C. The executive director and other permanent or temporary personnel
35 or agents of the board are not subject to civil liability for any act done or
36 proceeding undertaken or performed in good faith and in furtherance of the
37 purposes of this chapter.

38 Sec. 4. Heading change

39 The article heading of title 32, chapter 29, article 1, Arizona Revised
40 Statutes, is changed from "BOARD OF HOMEOPATHIC MEDICAL EXAMINERS" to "BOARD
41 OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS".

42 Sec. 5. Section 32-2901, Arizona Revised Statutes, is amended to read:
43 32-2901. Definitions

44 In this chapter, unless the context otherwise requires:

1 1. "Acupuncture" means a medical therapy in which ailments are
2 diagnosed and treated by the specific application of needles, heat or
3 physical and electromagnetic impulses or currents to specific anatomic points
4 on the body through any of the following:

5 (a) The diagnosis and treatment of ailments according to the
6 systematic principles of traditional Asian medicine.

7 (b) The diagnosis and treatment of pain, neuromuscular disorders and
8 other ailments based on the body's biophysics and neuroanatomic structure.

9 (c) The use of devices to determine the biologic electrical response
10 pattern of acupuncture points as a guide to diagnose bodily ailments and to
11 guide the prescription of homeopathic substances, orthomolecular therapy or
12 pharmaceutical medicine.

13 2. "Adequate records" means legible medical records that contain at a
14 minimum sufficient information to identify the patient, support the
15 diagnosis, document the treatment, accurately describe the results, indicate
16 advice, cautionary warnings and informed consent discussions with the patient
17 and provide sufficient information for another licensed health care
18 practitioner to assume continuity of the patient's care and to continue or
19 modify the treatment plan.

20 3. "Approved internship" means that the applicant has completed
21 training in a hospital that was approved for internship, fellowship or
22 residency training by the council on medical education in hospitals of the
23 American medical association, the association of American medical colleges,
24 the royal college of physicians and surgeons of Canada, the American
25 osteopathic association or any board approved similar body in the United
26 States or Canada that approves hospitals for internship, fellowship or
27 residency training.

28 4. "Approved school of medicine" means a school or college that offers
29 a course of study that on successful conclusion results in a degree of doctor
30 of medicine or doctor of osteopathy and that offers a course of study that is
31 approved or accredited by the association of American medical colleges, the
32 association of Canadian medical colleges, the American medical association,
33 the American osteopathic association or any board approved similar body in
34 the United States or Canada that accredits this course of study.

35 5. "Board" means the board of homeopathic ~~medical~~ AND INTEGRATED
36 MEDICINE examiners.

37 6. "Chelation therapy" means an experimental medical therapy to
38 restore cellular homeostasis through the use of intravenous, metal-binding
39 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
40 therapy is not an experimental therapy if it is used to treat heavy metal
41 poisoning.

42 7. "Controlled substance" means a drug or substance or a drug's or
43 substance's immediate precursor that is defined or listed in title 36,
44 chapter 27, article 2.

1 8. "Drug" means a medication or substance that is any of the
2 following:

3 (a) Recognized in the official compendia or for which standards or
4 specifications are prescribed in the official compendia.

5 (b) Intended for use in the diagnosis, cure, mitigation, treatment or
6 prevention of human diseases.

7 (c) Articles other than food that are intended to affect the structure
8 or function of the human body.

9 9. "Homeopathic medication" means a substance of animal, vegetable or
10 mineral origin that is prepared according to homeopathic pharmacology and
11 that is given usually in a homeopathic microdosage.

12 10. "Homeopathic microdosage" means a substance prepared so that it is
13 diluted from ten to the minus one to ten to the minus ten thousandth or
14 higher of its original concentration.

15 11. "Homeopathy" means a system of medicine that employs homeopathic
16 medication in accordance with the principle that a substance that produces
17 symptoms in a healthy person can cure those symptoms in an ill person.

18 12. "Immediate family" means a person's spouse, natural or adopted
19 children, parents and siblings and the natural or adopted children, parents
20 and siblings of the person's spouse.

21 13. "Letter of concern" means an advisory letter to notify a physician
22 that, while there is insufficient evidence to support disciplinary action,
23 the board believes the physician should modify or eliminate certain
24 practices.

25 14. "Licensee" means a homeopathic physician licensed under this
26 chapter.

27 15. "Medical assistant" means an unlicensed person who has completed an
28 educational program approved by the board, who assists in a homeopathic
29 practice under the supervision of a doctor of homeopathy and who performs
30 delegated procedures commensurate with the assistant's education and training
31 but who does not diagnose, interpret, design or modify established treatment
32 programs or violate any statute.

33 16. "Medical incompetence" means the lack of sufficient medical
34 knowledge or skill by a licensee to a degree that is likely to endanger a
35 patient's health. Medical incompetence includes the range of knowledge
36 expected for basic licensure as a medical or osteopathic physician in any
37 professional regulatory jurisdiction of the United States and additional
38 knowledge of homeopathic treatments and modalities expected of physicians
39 licensed under this chapter.

40 17. "Minor surgery" means surgical procedures that are conducted by a
41 licensee in an outpatient setting and that involve the removal or repair of
42 lesions or injuries to the skin, mucous membranes and subcutaneous tissues,
43 the use of topical, local or regional anesthetic agents, the treatment by
44 stabilizing or casting nondisplaced and uncomplicated fractures of the
45 extremities and diagnostic endoscopies of the intestinal tract, nasopharynx

1 and vagina. Minor surgery also includes ~~an uncomplicated vasectomy,~~
2 diagnostic aspiration of joints and subcutaneous cysts, therapeutic
3 injections of muscular trigger points, tendons, ligaments and scars and the
4 subcutaneous implantation of medical therapeutic agents. ~~Minor surgery may~~
5 ~~also include those procedures prescribed by the board by rule.~~ Minor surgery
6 does not include the use of general, spinal or epidural anesthesia, the
7 opening of body cavities, the repair of blood vessels and nerves or the
8 biopsy by incision, excision or needle aspiration of internal organs, the
9 breast or the prostate.

10 18. "Neuromuscular integration" means musculoskeletal therapy that uses
11 any combination of manual methods, physical agents and physical medicine
12 procedures and devices to improve physiological function by normalizing body
13 structure.

14 19. "Nutrition" means the recommendation by a licensee of therapeutic
15 or preventative dietary measures, food factor concentrates, fasting and
16 cleansing regimens and the rebalancing by a licensee of digestive system
17 function to correct diseases of malnutrition, to resolve conditions of
18 metabolic imbalance and to support optimal vitality.

19 20. "Orthomolecular therapy" means therapy to provide the optimum
20 concentration of substances normally present in the human body such as
21 vitamins, minerals, amino acids and enzymes. Orthomolecular therapy includes
22 the diagnosis of ailments or physiologic stresses that occur as a result of
23 genetic or environmental influences as well as acquired or inherited allergy
24 and hypersensitivity responses.

25 21. "Pharmaceutical medicine" means a drug therapy that uses
26 prescription-only and nonprescription pharmaceutical agents as well as
27 medicinal agents of botanical, biological or mineral origin and that is based
28 on current scientific indications or traditional or historical usage
29 indications.

30 22. "Practice of homeopathic medicine" means the practice of medicine
31 in which a person purports to diagnose, treat or correct real or imagined
32 human diseases, injuries, ailments, infirmities and deformities of a physical
33 or mental origin and includes acupuncture, chelation therapy, homeopathy,
34 minor surgery, neuromuscular integration, nutrition, orthomolecular therapy
35 and pharmaceutical medicine.

36 23. "Preceptorship" means an extended period of individual study with
37 one or more experienced homeopathic physicians or institutions.

38 24. "Prescription-only drug" does not include a controlled substance
39 but does include:

40 (a) A drug that is generally regarded by medical experts to be unsafe
41 if its use and dosage are not supervised by a medical practitioner.

42 (b) A drug that is approved for use under the supervision of a medical
43 practitioner pursuant to the federal new drug application law or section
44 32-1962.

1 (c) A potentially harmful drug if its labeling does not contain full
2 directions for its use by the patient.

3 (d) A drug that is required by federal law to bear on its label the
4 following words: "Caution: Federal law prohibits dispensing without
5 prescription."

6 25. "Professional negligence" means any of the following:

7 (a) That a licensee administers treatment to a patient in a manner
8 that is contrary to accepted practices and that harms the patient if it can
9 be shown to the board's satisfaction that accepted practices are inherently
10 less hazardous.

11 (b) That a licensee commits an act of unprofessional conduct or
12 displays an unreasonable lack of professional skill or fidelity.

13 (c) That a licensee's negligence, carelessness or disregard of
14 established principles or practice results in a patient's injury, unnecessary
15 suffering or death.

16 26. "Special purpose licensing examination" means an examination
17 developed by the national board of medical examiners on behalf of the
18 federation of state medical boards for use by state licensing boards to test
19 the basic medical competence of physicians who are applying for licensure and
20 who have been in practice in another jurisdiction of the United States and to
21 determine the competence of a physician under investigation by a state
22 licensing board.

23 Sec. 6. Section 32-2902, Arizona Revised Statutes, is amended to read:

24 32-2902. Board of homeopathic and integrated medicine
25 examiners; membership; duties; removal; immunity

26 A. The board of homeopathic ~~medical~~ AND INTEGRATED MEDICINE examiners
27 is established consisting of the following six members appointed by the
28 governor:

29 1. Two public members.

30 2. Four homeopathic physicians licensed under this chapter.

31 B. Board members serve staggered three year terms ending on June
32 30. Board members shall not serve more than three consecutive terms. A
33 board member may continue to serve until that member's replacement takes
34 office.

35 C. Board members shall be residents of this state for at least three
36 consecutive years immediately before their appointment.

37 D. The governor may remove a board member from office because of that
38 member's neglect of duty, malfeasance, misfeasance, incompetence or
39 unprofessional or dishonorable conduct.

40 E. A board member's term of office automatically ends if that member
41 is absent from this state for more than six months or if that member fails to
42 attend three consecutive regularly scheduled board meetings.

43 F. Board members and board employees are immune from civil liability
44 for any good faith action they take to implement this chapter.

1 Sec. 7. Section 32-2904, Arizona Revised Statutes, is amended to read:
2 32-2904. Powers and duties

3 A. The board shall:

4 1. Conduct all examinations for applicants for a license under this
5 chapter, issue licenses, conduct hearings, regulate the conduct of licensees
6 and administer and enforce this chapter.

7 2. Enforce the standards of practice prescribed by this chapter and
8 board rules.

9 3. Collect and account for all fees under this chapter and deposit,
10 pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.

11 4. Maintain a record of its acts and proceedings, including the
12 issuance, refusal to issue, renewal, suspension or revocation of licenses to
13 practice according to this chapter.

14 5. Maintain a roster of all homeopathic physicians licensed under this
15 chapter, which shall indicate:

16 (a) The name of the licensed physician.

17 (b) The current professional office address.

18 (c) The date and number of the license issued under this chapter.

19 (d) Whether the licensee is in good standing.

20 6. Adopt and use a seal, the imprint of which, together with the
21 signatures of the president or vice-president of the board and the
22 secretary-treasurer, shall evidence its official acts.

23 7. Contract with the department of administration for administrative
24 and record keeping services.

25 8. Charge additional fees that do not exceed the cost of the services
26 for services the board deems necessary to carry out its intent and purposes.

27 9. Adopt rules regarding the regulation and the qualifications of
28 medical assistants.

29 10. Keep board records open to public inspection during normal business
30 hours.

31 B. The board may:

32 1. Adopt rules necessary or proper for the administration of this
33 chapter.

34 ~~2. Accredit educational institutions in this state which grant the~~
35 ~~degree of doctor of medicine in homeopathy.~~

36 ~~3.~~ 2. Hire permanent or temporary personnel to carry out the purposes
37 of this chapter.

38 ~~4.~~ 3. Hire or contract with investigators to assist in the
39 investigation of violations of this chapter and contract with other state
40 agencies if required to carry out this chapter.

41 ~~5.~~ 4. Appoint one of its members to the jurisdiction arbitration
42 panel pursuant to section 32-2907, subsection B.

43 ~~6.~~ 5. Employ consultants to perform duties the board determines are
44 necessary to implement this chapter.

1 ~~7-~~ 6. Appoint from its membership a temporary secretary to perform
2 the duties of the executive director if that office is vacant. The temporary
3 secretary is eligible to receive compensation pursuant to section 38-611.

4 ~~8-~~ 7. Compile and publish an annual directory.

5 ~~9-~~ 8. Adopt rules to establish competency or professional review
6 standards for any minor surgical procedure.

7 ~~10-~~ 9. Appoint two or more board members to a subcommittee that
8 reviews and approves applications and issues permits pertaining to
9 homeopathic medical assistants and associated practical educational programs,
10 pursuant to board rules.

11 ~~11-~~ 10. Appoint two or more board members to a subcommittee that
12 reviews and approves applications and issues permits pertaining to drugs and
13 device dispensing practices, pursuant to board rules.

14 Sec. 8. Section 32-2906, Arizona Revised Statutes, is amended to read:

15 32-2906. Board of homeopathic and integrated medicine
16 examiners' fund

17 A. A board of homeopathic ~~medical~~ AND INTEGRATED MEDICINE examiners'
18 fund is established. Pursuant to sections 35-146 and 35-147, the board shall
19 deposit ten per cent of all monies collected under this chapter in the state
20 general fund and deposit the remaining ninety per cent in the board of
21 homeopathic medical examiners' fund.

22 B. Monies deposited in the ~~board of homeopathic medical examiners'~~
23 fund are subject to section 35-143.01.

24 Sec. 9. Section 32-2911, Arizona Revised Statutes, is amended to read:

25 32-2911. Persons and acts not affected by chapter

26 This chapter does not prevent:

27 1. The practice of any other method, system or science of healing by a
28 person who is licensed pursuant to the laws of this state if that person is
29 acting within the scope of that license.

30 2. The practice by homeopathic physicians discharging their duties
31 while members of the armed forces of the United States or other federal
32 agencies.

33 3. A person from administering a lawful domestic or family remedy,
34 health food or health food supplement to that person's immediate family
35 members.

36 4. A person from administering over-the-counter homeopathic remedies
37 in the course of providing medical assistance in an emergency.

38 5. The practice of any of the healing arts offered by this state's
39 Indian tribes.

40 6. The practice of religion, treatment by prayer or the laying on of
41 hands as a religious rite or ordinance.

42 7. Any act competently performed by a physician assistant that is
43 within the scope of that person's duties.

1 8. A physician licensed in any state, district or territory of the
2 United States from infrequently consulting with a person licensed under this
3 chapter or acting pursuant to an invitation by a legitimate sponsor to visit
4 this state to promote professional education through lectures, clinics or
5 demonstrations if that visiting physician does not open an office, meet with
6 patients or receive calls relating to the practice of homeopathic medicine
7 outside of the sponsoring institution's facilities and programs.

8 9. The independent practice of acupuncture as a traditional Asian
9 healing art.

10 10. THE PRACTICE OF PROVIDING TREATMENT OF THE SPIRITUAL VITAL FORCE IN
11 ACCORDANCE WITH HAHNEMANIAN PRINCIPLES THROUGH THE USE OF REMEDIES THAT ARE
12 DILUTED BEYOND THE CONCENTRATION OF SUBSTANCES IN DRINKING WATER AND PREPARED
13 IN THE MANNER DESCRIBED IN THE HOMEOPATHIC PHARMACOPOEIA OF THE UNITED
14 STATES.

15 Sec. 10. Section 32-2912, Arizona Revised Statutes, is amended to
16 read:

17 32-2912. Qualifications of applicant; applications

18 A. The board shall grant a license to practice medicine as a
19 homeopathic physician to an applicant who meets all of the following
20 requirements:

21 1. Is a person of good moral character.

22 2. Holds a degree from an approved school of medicine or has received
23 a medical education that the board determines is of equivalent quality.

24 3. Holds a license in good standing to practice medicine or
25 osteopathic medicine that is issued under chapter 13 or 17 of this title or
26 by another state, district or territory of the United States.

27 4. Has a professional record ~~which~~ THAT indicates that the applicant
28 has not had a license to practice medicine refused, revoked, suspended or
29 restricted in any way by any state, territory, district or country for
30 reasons ~~which~~ THAT relate to the physician's ability to competently and
31 safely practice medicine.

32 5. Has a professional record ~~which~~ THAT indicates that the applicant
33 has not committed any act or engaged in any conduct ~~which~~ THAT would
34 constitute grounds for disciplinary action against a licensee under this
35 chapter.

36 6. Has the physical and mental capacity to safely engage in the
37 practice of medicine.

38 7. Pays all fees and costs required by the board.

39 8. Completes the application required by the board.

40 B. The board may require an applicant to submit additional written or
41 oral information and may conduct additional investigations if it determines
42 that this is necessary to adequately inform itself of the applicant's ability
43 to meet the requirements of this chapter. IF AN APPLICANT HAS HAD A LICENSE
44 REVOKED BY OR HAS SURRENDERED A LICENSE TO, ANOTHER JURISDICTION, THE
45 APPLICANT MAY ATTEMPT TO DEMONSTRATE TO THE BOARD'S SATISFACTION THAT THE

1 APPLICANT IS COMPLETELY REHABILITATED WITH RESPECT TO THE CONDUCT THAT WAS
2 THE BASIS FOR THE REVOCATION OR SURRENDER OF THE LICENSE.

3 C. THE BOARD SHALL VACATE ITS PREVIOUS ORDER TO DENY A LICENSE IF THAT
4 DENIAL WAS BASED ON THE APPLICANT'S CONVICTION OF A FELONY OR AN OFFENSE
5 INVOLVING MORAL TURPITUDE AND THAT CONVICTION HAS BEEN REVERSED ON APPEAL.
6 THE PHYSICIAN MAY RESUBMIT AN APPLICATION FOR LICENSURE AS SOON AS THE COURT
7 ENTERS THE REVERSAL.

8 ~~E.~~ D. If the board finds that an applicant has committed an act or
9 engaged in conduct that would constitute grounds for disciplinary action, the
10 board shall determine to its satisfaction that the conduct has been
11 corrected, monitored and resolved. If the matter has not been resolved,
12 before it issues a license the board shall determine to its satisfaction that
13 mitigating circumstances exist that prevent its resolution.

14 E. EXCEPT AS PROVIDED IN SUBSECTION C, A PERSON SHALL NOT SUBMIT AN
15 APPLICATION FOR REINSTATEMENT OR A NEW APPLICATION WITHIN FIVE YEARS AFTER
16 THE PERSON HAS COMPLETELY CORRECTED THE CONDUCT AND MADE FULL LEGAL
17 RESTITUTION TO THE BOARD'S SATISFACTION.

18 ~~D.~~ F. An applicant shall submit a verified completed application to
19 the board in a form and within a period of time prescribed by the board. The
20 application shall include:

21 1. The application fee.

22 2. Affidavits from three physicians who are licensed to practice
23 medicine in any state or district of the United States and who are in active
24 practice. The physicians shall attest to the applicant's good moral
25 character and fitness to practice homeopathic medicine.

26 3. A diploma or certificate conferring the degree of doctor of
27 medicine in homeopathy issued by a homeopathic college or any other
28 educational institution approved by the board or documentation of the
29 applicant's successful completion of preceptorships or formal postgraduate
30 courses approved by the board.

31 4. Proof that the applicant has served a board approved internship.

32 5. The applicant's oath that:

33 (a) All of the information contained in the application and the
34 accompanying evidence or other credentials ~~are~~ IS correct.

35 (b) The applicant submitted the credentials without fraud or
36 misrepresentation and that the applicant is the lawful holder of the
37 credentials.

38 (c) The applicant authorizes the release to the board of any
39 information from any source that the board determines is necessary for it to
40 act on the application.

41 ~~E.~~ G. The board shall promptly inform an applicant in writing of any
42 deficiency in the application that prevents the board from acting on it.

43 ~~F.~~ H. The board shall consider an application withdrawn if any of the
44 following is true:

1 1. The applicant submits a written request to withdraw the
2 application.

3 2. The applicant without good cause fails to appear for a board
4 interview.

5 3. The applicant fails to submit information to the board within one
6 year of the board's request for that information.

7 4. The applicant fails to complete the required examination or
8 personal interview within one year of submitting the application.

9 Sec. 11. Section 32-2913, Arizona Revised Statutes, is amended to
10 read:

11 32-2913. Examination; reexamination

12 A. An applicant for licensure shall successfully pass an examination
13 prescribed by the board. ~~The board may waive this requirement if either of~~
14 ~~the following is true:~~

15 ~~1. The applicant has practiced primarily homeopathic medicine for the~~
16 ~~past three years and submits affidavits from three physicians who hold valid~~
17 ~~medical degrees from educational institutions approved by the board that~~
18 ~~attest to the applicant's competency for homeopathic practice.~~

19 ~~2. The applicant holds a current, unsuspended and unrevoked license to~~
20 ~~practice homeopathic medicine issued by another state, district or territory~~
21 ~~of the United States.~~

22 B. Examination for a license to practice under this chapter shall
23 include all subjects ~~which~~ THAT are generally accepted as necessary for a
24 thorough knowledge of the practice of medicine as homeopathic physicians.
25 The board shall prescribe rules for conducting the examination and shall set
26 the passing grade.

27 C. The board shall review the examination of any applicant upon the
28 applicant's request. A grade on an examination reviewed by the board may be
29 changed only by the majority vote of the members of the board. A person who
30 fails to pass the initial licensure examination may be reexamined within one
31 year of the date of the receipt of the original application fee without
32 payment of additional fees. However, the applicant shall pay all additional
33 fees associated with board prescribed investigatory examinations such as the
34 special purpose licensing examination.

35 D. In a written examination, applicants shall be designated by numbers
36 only and the corresponding names shall be kept secret until after the grading
37 of the examinations.

38 Sec. 12. Section 32-2914, Arizona Revised Statutes, is amended to
39 read:

40 32-2914. Fees

41 A. The board by formal vote at its annual meeting shall establish fees
42 and penalties that do not exceed the following:

43 1. Five hundred fifty dollars for an application for a license to
44 practice homeopathic medicine pursuant to section 32-2912, subsection ~~D~~ F,
45 paragraph 1.

- 1 2. Two hundred fifty dollars for issuance of an initial license.
- 2 3. Fifty dollars for issuance of a duplicate license.
- 3 4. One thousand dollars for annual renewal of a license.
- 4 5. Three hundred fifty dollars for late renewal of a license.
- 5 6. Two hundred dollars for initial and annual renewal of a permit to
- 6 dispense drugs and devices.
- 7 7. Five hundred dollars for an application for a locum tenens
- 8 registration.
- 9 8. Two hundred fifty dollars for issuance of a locum tenens
- 10 registration.
- 11 9. Two hundred dollars for annual renewal of a homeopathic medical
- 12 assistant registration.
- 13 10. Twenty-five cents per page for copying board records, documents,
- 14 letters, minutes, applications and files.
- 15 11. Thirty-five dollars for a copy of an audiotape.
- 16 12. One hundred dollars for the sale of computerized tapes or diskettes
- 17 that do not require programming.
- 18 13. Two hundred dollars for supervising a homeopathic medical
- 19 assistant.
- 20 ~~14. Fifty dollars for triennial reregistration of supervision of a~~
- 21 ~~homeopathic medical assistant.~~
- 22 ~~15.~~ 14. Three hundred dollars for each initial application and annual
- 23 renewal of a registration to conduct a practical educational program for
- 24 supervised medical assistants.
- 25 B. The board may charge a licensee with the board's costs to
- 26 administer a special purpose licensing examination related to its
- 27 investigation of the licensee's competence.
- 28 C. The board may charge the actual cost of completing a professional
- 29 conduct investigation to the licensee who is the subject of the investigation
- 30 if the board determines that the licensee violated this chapter or a board
- 31 rule.
- 32 D. The board shall charge additional fees for services that it is not
- 33 required to provide under this chapter but that it determines are necessary
- 34 to carry out its purpose. The board shall charge only the actual cost of
- 35 providing these services.
- 36 Sec. 13. Section 32-2915, Arizona Revised Statutes, is amended to
- 37 read:
- 38 32-2915. Licensure; issuance; duplicate licenses; renewal;
- 39 continuing education; expiration; cancellation
- 40 A. The board shall issue a license to practice homeopathic medicine in
- 41 this state if the applicant meets all board requirements for licensure and
- 42 pays the licensure fee.
- 43 B. The board may issue a duplicate license to a person who holds a
- 44 license under this chapter on payment of the duplicate license fee.

1 C. UNTIL JANUARY 1, 2009, by December 1 of each year the executive
2 director shall notify each licensee of the renewal date and provide the
3 current renewal form. The executive director shall send this notice by first
4 class mail to the address the licensee most recently provided to the board.

5 D. UNTIL JANUARY 1, 2009, a licensee shall renew the license on or
6 before January 1 of each year by submitting a completed renewal form and the
7 renewal fee. A licensee who fails to do this by February 1 shall also submit
8 the late fee prescribed in this article. A license expires if it is not
9 renewed as prescribed by this subsection on or before May 1.

10 E. BEGINNING JANUARY 1, 2009, AT LEAST THIRTY DAYS BEFORE THE FIRST
11 DAY OF THE MONTH IN WHICH A PHYSICIAN'S LICENSE WAS INITIALLY ISSUED, THE
12 EXECUTIVE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE RENEWAL DATE AND PROVIDE
13 A RENEWAL FORM. THE EXECUTIVE DIRECTOR SHALL SEND THIS NOTICE BY FIRST CLASS
14 MAIL TO THE ADDRESS THE LICENSEE MOST RECENTLY PROVIDED TO THE BOARD.

15 F. BEGINNING JANUARY 1, 2010, EACH LICENSEE SHALL INCLUDE WITH THE
16 RENEWAL FORM A STATEMENT THAT THE LICENSEE HAS COMPLETED AT LEAST TWENTY
17 HOURS OF BOARD APPROVED CONTINUING EDUCATION IN THE PRECEDING YEAR. THE
18 BOARD SHALL NOT RENEW A LICENSE IF THE LICENSEE DOES NOT FULLY DOCUMENT
19 COMPLIANCE WITH THIS SUBSECTION. THE BOARD MAY WAIVE THE CONTINUING
20 EDUCATION REQUIREMENTS OF THIS SUBSECTION FOR A PERIOD PRESCRIBED BY THE
21 BOARD IF THE LICENSEE'S NONCOMPLIANCE WAS DUE TO DISABILITY, MILITARY
22 SERVICE, ABSENCE FROM THE UNITED STATES OR CIRCUMSTANCES BEYOND THE CONTROL
23 OF THE LICENSEE. IF A LICENSEE FAILS TO COMPLETE THE CONTINUING EDUCATION
24 REQUIREMENTS OF THIS SUBSECTION FOR ANY OTHER REASON, THE BOARD MAY GRANT AN
25 EXTENSION OF NOT MORE THAN SIXTY DAYS. A LICENSEE WHO FAILS TO COMPLY WITH
26 THE CONTINUING EDUCATION REQUIREMENTS OF THIS SUBSECTION AND WHO HAS NOT BEEN
27 GRANTED A WAIVER PURSUANT TO THIS SUBSECTION COMMITS AN ACT OF UNPROFESSIONAL
28 CONDUCT AND IS SUBJECT TO PROBATION OR LICENSURE SUSPENSION OR REVOCATION.

29 G. BEGINNING JANUARY 1, 2009, A LICENSEE SHALL SUBMIT A COMPLETED
30 APPLICATION FOR LICENSE RENEWAL AND THE RENEWAL FEE EACH YEAR ON OR BEFORE
31 THE LAST DAY OF THE MONTH IN WHICH THE LICENSE WAS INITIALLY ISSUED. A
32 LICENSE EXPIRES IF IT IS NOT RENEWED WITHIN SIXTY DAYS. A LICENSEE WHO FAILS
33 TO DO THIS BY THE FIRST DAY OF THE FOLLOWING MONTH MUST ALSO SUBMIT A LATE
34 FEE AS PRESCRIBED BY THE BOARD. A PERSON WHO PRACTICES HOMEOPATHIC MEDICINE
35 AFTER A LICENSE HAS EXPIRED IS IN VIOLATION OF THIS CHAPTER.

36 ~~E.~~ H. The board may issue a license to a person whose license has
37 expired only if that person applies for a license as prescribed in sections
38 32-2912 and 32-2913.

39 ~~F.~~ I. With each application for licensure renewal, the licensee shall
40 include a report of disciplinary actions, restriction and any other action
41 placed on or against the license or practice by any other state regulatory
42 board or agency of the federal government, including the denial of a license
43 for failing a special purpose licensing examination. The report shall
44 include the name and address of the sanctioning agency, the nature of the

1 action taken and a general statement of the charges leading to the action
2 taken.

3 ~~G.~~ J. On request of a licensee the board shall cancel that person's
4 license to practice homeopathic medicine if the licensee is not the subject
5 of a board investigation or disciplinary proceeding. The board may cancel
6 the license of a person under investigation for violating this chapter or
7 board rules if the licensee admits to the violations in writing and on the
8 board record.

9 Sec. 14. Section 32-2916, Arizona Revised Statutes, is amended to
10 read:

11 32-2916. Directory; change of address; civil penalty; fees

12 A. The board may publish an annual directory containing the following:

13 1. The names and addresses of the officers and members of the board.

14 2. The names and addresses of all persons certified, licensed or
15 registered by the board.

16 3. The current certified board rules.

17 4. A copy of this chapter.

18 5. A list of approved postgraduate and continuing education courses in
19 the treatment modalities pertinent to the practice of a homeopathic
20 physician.

21 6. Additional information that the board determines is of interest and
22 importance to homeopathic physicians.

23 B. Each licensee shall inform the board in writing of the licensee's
24 home address, home telephone number, office address and office telephone
25 number as requested by the board and within forty-five days of a change in
26 any of this information. The board shall keep a licensee's home address and
27 home telephone number confidential. The board may assess a licensee who
28 fails to comply with this subsection with the board's costs to locate the
29 licensee. The board may also impose a civil penalty on that licensee of not
30 more than one hundred dollars.

31 C. The board shall provide each licensee with one copy of the
32 directory free of charge. The board may provide additional copies to the
33 public and licensee for a cost of not more than twenty-five dollars for each
34 directory.

35 D. The board shall deposit, pursuant to sections 35-146 and 35-147,
36 monies collected under this section in the board of homeopathic medical AND
37 INTEGRATED MEDICINE examiners' fund.

38 Sec. 15. Section 32-2933, Arizona Revised Statutes, is amended to
39 read:

40 32-2933. Definition of unprofessional conduct

41 "Unprofessional conduct" includes the following acts, whether occurring
42 in this state or elsewhere:

43 1. Performing an invasive surgical procedure not specifically
44 permitted by this chapter or by board rules or pursuant to a license issued
45 under chapter 13 or 17 of this title.

1 2. Wilful betrayal of a professional secret or wilful violation of a
2 privileged communication except as either of these may otherwise be required
3 by law. This paragraph does not prevent members of the board from the full
4 and free exchange of information with the licensing and disciplinary boards
5 of other states, territories or districts of the United States or with
6 foreign countries or with the Arizona homeopathic AND INTEGRATIVE medical
7 association or any of its component organizations or with the homeopathic
8 medical organizations of other states, counties, districts or territories or
9 with those of foreign countries.

10 3. Commission of a felony, whether or not involving moral turpitude,
11 or a misdemeanor involving moral turpitude. In either case, conviction by
12 any court of competent jurisdiction or a plea of no contest is deemed
13 conclusive evidence of guilt.

14 4. Habitual intemperance in the use of alcohol or habitual substance
15 abuse.

16 5. Violating federal, state, county or municipal laws or regulations
17 applicable to the practice of medicine or relating to public health.

18 6. Prescribing a controlled substance for other than accepted
19 therapeutic purposes.

20 7. Conduct that the board determines is gross professional negligence,
21 repeated professional negligence or any negligence that causes the death of a
22 patient.

23 8. Impersonating another physician.

24 9. Acting or assuming to act as a member of the board if this is not
25 true.

26 10. Procuring or attempting to procure a license to practice
27 homeopathic medicine by fraud, by misrepresentation or by knowingly taking
28 advantage of the mistake of another.

29 11. Having professional connection with or lending one's name to an
30 illegal practitioner of homeopathic medicine or of any of the other healing
31 arts.

32 12. Representing that a manifestly incurable disease, injury, ailment
33 or infirmity can be permanently cured or that a curable disease, injury,
34 ailment or infirmity can be cured within a stated time if this is not true.

35 13. Offering, undertaking or agreeing to cure or treat a disease,
36 injury, ailment or infirmity by a secret means, method, device or
37 instrumentality.

38 14. Refusing to divulge to the board on demand the means, method,
39 device or instrumentality used in the treatment of a disease, injury, ailment
40 or infirmity.

41 15. Giving or receiving or aiding or abetting the giving or receiving
42 of rebates, either directly or indirectly.

43 16. Knowingly making any false or fraudulent statement, written or
44 oral, in connection with the practice of homeopathic medicine except as the
45 same may be necessary for accepted therapeutic purposes.

- 1 17. Immorality or misconduct that tends to discredit the profession.
- 2 18. Being disciplined by another regulatory jurisdiction because of the
- 3 licensee's mental or physical inability to engage safely in the practice of
- 4 medicine, medical incompetence or unprofessional conduct as defined by that
- 5 jurisdiction and that corresponds directly or indirectly with an act of
- 6 unprofessional conduct prescribed by this section. The disciplinary action
- 7 may include refusing, denying, revoking or suspending a license, issuing a
- 8 formal reprimand, issuing a decree of censure or otherwise limiting,
- 9 restricting or monitoring the licensee or placing the licensee on probation.
- 10 19. Any conduct or practice contrary to recognized standards of ethics
- 11 of the homeopathic medical profession, any conduct or practice that does or
- 12 might constitute a danger to the health, welfare or safety of the patient or
- 13 the public,— or any conduct, practice or condition that does or might impair
- 14 the ability to practice homeopathic medicine safely and skillfully.
- 15 20. Failing or refusing to maintain adequate records on a patient or to
- 16 make patient records promptly available to another physician on request and
- 17 receipt of proper authorization.
- 18 21. Advertising in a false, deceptive or misleading manner.
- 19 22. Violating or attempting to violate, directly or indirectly, or
- 20 assisting in or abetting the violation of or conspiring to violate this
- 21 chapter or any board rule.
- 22 23. Using a controlled substance unless it is prescribed by another
- 23 physician for use during a prescribed course of treatment.
- 24 24. Prescribing, dispensing or administering anabolic androgenic
- 25 steroids for other than therapeutic purposes.
- 26 25. Prescribing or dispensing controlled substances to members of the
- 27 homeopathic physician's immediate family.
- 28 26. Prescribing, dispensing or administering schedule II controlled
- 29 substances as defined in section 36-2513, including amphetamines and similar
- 30 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a
- 31 period in excess of thirty days in any one year, or the nontherapeutic use of
- 32 injectable amphetamines.
- 33 27. The use of experimental forms of diagnosis and treatment without
- 34 adequate informed patient consent, without a board approved written
- 35 disclosure that the form of diagnosis and treatment to be used is
- 36 experimental and without conforming to generally accepted experimental
- 37 criteria, including protocols, detailed records, periodic analysis of results
- 38 and periodic review by a peer review committee.
- 39 28. Sexual intimacies with a patient.
- 40 29. Use of the designation "M.D." or "D.O." in a way that would lead
- 41 the public to believe that a person is licensed by the Arizona medical board
- 42 or the board of osteopathic examiners in medicine and surgery in this state
- 43 if this is not the case.
- 44 30. Falsely or fraudulently representing or holding oneself out as
- 45 being a homeopathic medical specialist.

1 31. Failing to dispense drugs and devices in compliance with article 4
2 of this chapter.

3 32. Violating a formal board order, terms of probation or a stipulation
4 issued or entered into by the board or its designee under this chapter.

5 33. Charging a fee for services not rendered or charging and collecting
6 a clearly unreasonable fee. In determining the reasonableness of the fee,
7 the board shall consider the fee customarily charged in this state for
8 similar services in relation to modifying factors such as the time required,
9 the complexity of the service and the skill required to perform the service
10 properly. This paragraph does not apply if there is a clearly written
11 contract for a fixed fee between the physician and the patient that is
12 entered into before the physician provides the service.

13 34. Failing to appropriately direct, collaborate with or supervise a
14 licensed, certified or registered health care provider, a homeopathic medical
15 assistant or office personnel employed or assigned to the physician to assist
16 in the medical care of patients.

17 35. Knowingly making a false or misleading statement on a form required
18 by the board or in written correspondence with the board.

19 36. Failing to furnish legally requested information in a timely manner
20 to the board or its investigators or representatives.

21 37. Failing to allow properly authorized board personnel to examine or
22 have access to a licensee's documents, reports or records that relate to the
23 licensee's medical practice or medically related activities.

24 38. Signing a blank, undated or predated prescription form.

25 39. Refusing to submit to a body fluid examination required under
26 section 32-2941 or pursuant to a board investigation into the licensee's
27 substance abuse.

28 40. PRESCRIBING, DISPENSING OR FURNISHING A PRESCRIPTION MEDICATION OR
29 A PRESCRIPTION-ONLY DEVICE AS DEFINED IN SECTION 32-1901 TO A PERSON UNLESS
30 THE LICENSEE FIRST CONDUCTS A COMPREHENSIVE PHYSICAL OR MENTAL HEALTH STATUS
31 EXAMINATION OF THAT PERSON OR HAS PREVIOUSLY ESTABLISHED A DOCTOR-PATIENT
32 RELATIONSHIP. THIS PARAGRAPH DOES NOT APPLY TO:

33 (a) A PHYSICIAN WHO PROVIDES TEMPORARY PATIENT SUPERVISION ON BEHALF
34 OF THE PATIENT'S REGULAR TREATING LICENSED HEALTH CARE PROFESSIONAL.

35 (b) EMERGENCY MEDICAL SITUATIONS AS DEFINED IN SECTION 41-1831.

36 (c) PRESCRIPTIONS WRITTEN TO PREPARE A PATIENT FOR A MEDICAL
37 EXAMINATION.

38 (d) PRESCRIPTIONS WRITTEN OR PRESCRIPTION MEDICATIONS ISSUED FOR USE
39 BY A COUNTY OR TRIBAL PUBLIC HEALTH DEPARTMENT FOR IMMUNIZATION PROGRAMS, AN
40 EMERGENCY TREATMENT, IN RESPONSE TO AN INFECTIOUS DISEASE INVESTIGATION, A
41 PUBLIC HEALTH EMERGENCY, AN INFECTIOUS DISEASE OUTBREAK OR AN ACT OF
42 BIOTERRORISM. FOR THE PURPOSES OF THIS SUBDIVISION, "BIOTERRORISM" HAS THE
43 SAME MEANING PRESCRIBED IN SECTION 36-781.

1 41. FAILING TO OBTAIN FROM A PATIENT BEFORE AN EXAMINATION OR TREATMENT
2 A SIGNED INFORMED CONSENT THAT INCLUDES LANGUAGE THAT MAKES IT CLEAR THE
3 PHYSICIAN IS PROVIDING HOMEOPATHIC MEDICAL TREATMENT INSTEAD OF OR IN
4 ADDITION TO STANDARD CONVENTIONAL ALLOPATHIC OR OSTEOPATHIC TREATMENT.

5 Sec. 16. Section 32-2934, Arizona Revised Statutes, is amended to
6 read:

7 32-2934. Grounds for suspension or revocation of license; duty
8 to report; unprofessional conduct hearing; decision
9 of board

10 A. The board on its own motion may investigate any evidence that
11 appears to show that a homeopathic physician is or may be medically
12 incompetent, guilty of unprofessional conduct or mentally or physically
13 unable to engage safely in the practice of medicine. Any homeopathic
14 physician, the Arizona homeopathic AND INTEGRATIVE medical association or any
15 health care institution as defined in section 36-401 shall, and any other
16 person may, report to the board any information the person may have that
17 appears to show that a homeopathic physician is or may be medically
18 incompetent, guilty of unprofessional conduct or mentally or physically
19 unable to engage safely in the practice of medicine. The board shall notify
20 the homeopathic physician about whom information is received as to the
21 content of the information within one hundred twenty days after receipt of
22 the information. Any person who reports or provides information to the board
23 in good faith is not subject to an action for civil damages as a result of
24 reporting or providing the information, and the person's name shall not be
25 disclosed unless the person's testimony is essential to the disciplinary
26 proceedings conducted pursuant to this section. It is an act of
27 unprofessional conduct for any homeopathic physician to fail to report as
28 required by this section. Any health care institution that fails to report
29 as required by this section shall be reported by the board to the
30 institution's licensing agency.

31 B. A health care institution shall inform the board if the privileges
32 of a homeopathic physician to practice in the health care institution are
33 denied, revoked, suspended or limited because of actions by the homeopathic
34 physician that jeopardized patient health and welfare or if the physician
35 resigns during pending proceedings for revocation, suspension or limitation
36 of privileges. A report to the board pursuant to this subsection shall
37 contain a general statement of the reasons the health care institution denied
38 or took action to revoke, suspend or limit a homeopathic physician's
39 privileges.

40 C. The board may conduct investigations necessary to fully inform
41 itself with respect to any evidence filed with the board under subsection A
42 of this section. As part of this investigation, the board may require the
43 physician under investigation to be interviewed by board representatives or
44 to undergo any combination of mental, physical, oral or written medical
45 competency examinations.

1 D. If the information gathered under subsections A and B of this
2 section indicates that the protection of public health requires that the
3 board take emergency action, it may order the summary suspension of a license
4 pending the outcome of a formal disciplinary hearing pursuant to title 41,
5 chapter 6, article 10. The board shall serve the suspended licensee with a
6 written notice of the specific charges and the time and place of the formal
7 hearing. The board shall hold this hearing within sixty days of the
8 suspension unless the board for good reason shown by the licensee grants an
9 extension on the hearing date.

10 E. If, after completing its investigation, the board finds that the
11 information provided pursuant to subsection A of this section is not of
12 sufficient seriousness to merit direct action against the license of the
13 homeopathic physician, it may take any of the following actions:

14 1. Dismiss if, in the opinion of the board, the information is without
15 merit.

16 2. File a letter of concern.

17 3. Issue a nondisciplinary order requiring the licensee to complete a
18 prescribed number of hours of continuing education in an area or areas
19 prescribed by the board to provide the licensee with the necessary
20 understanding of current developments, skills, procedures or treatment.

21 F. If after completing its initial investigation under subsection A of
22 this section the board determines that rehabilitative or disciplinary action
23 can be taken without the presence of the licensee at an informal interview,
24 the board and the licensee may enter into a stipulated agreement to limit or
25 restrict the licensee's practice or to rehabilitate the licensee, protect the
26 public and ensure the licensee's ability to safely engage in the practice of
27 homeopathic medicine.

28 G. If after completing its investigation the board believes that this
29 information is or may be true, the board may request an informal interview
30 with the homeopathic physician. If the homeopathic physician refuses the
31 invitation or accepts the invitation and the results of the interview
32 indicate that suspension or revocation of the license may be in order, the
33 board shall issue a formal complaint and conduct a formal hearing pursuant to
34 title 41, chapter 6, article 10. If after completing the informal interview
35 the board finds that the information provided under subsection A of this
36 section is not of sufficient seriousness to merit suspension or revocation of
37 the license, it may take the following actions:

38 1. Dismiss if, in the opinion of the board, the information is without
39 merit.

40 2. File a letter of concern.

41 3. Issue a decree of censure. A decree of censure constitutes an
42 official action against the homeopathic physician's license and may include a
43 requirement for restitution of fees to a patient resulting from violations of
44 this chapter or board rules.

1 4. Fix a period and terms of probation best adapted to protect the
2 public health and safety and rehabilitate or educate the homeopathic
3 physician. The probation, if deemed necessary, may include temporary
4 suspension of the license for not to exceed twelve months, restriction of the
5 homeopathic physician's license to practice medicine or a requirement for
6 restitution of fees to a patient resulting from violations of this chapter or
7 board rules. If a licensee fails to comply with the terms of probation, the
8 board may file a summons, complaint and notice of hearing pursuant to title
9 41, chapter 6, article 10 based on the information considered by the board at
10 the informal interview and any other acts or conduct alleged to be in
11 violation of this chapter or board rules.

12 5. Enter into an agreement with the homeopathic physician to restrict
13 or limit the homeopathic physician's practice or medical activities in order
14 to rehabilitate the homeopathic physician, protect the public and ensure the
15 homeopathic physician's ability to safely engage in the practice of medicine.

16 6. Issue a nondisciplinary order requiring the licensee to complete a
17 prescribed number of hours of continuing education in an area or areas
18 prescribed by the board to provide the licensee with the necessary
19 understanding of current developments, skills, procedures or treatment.

20 H. In an informal interview or a formal hearing the board, in addition
21 to any other action that it may take, may impose an administrative penalty in
22 an amount of not less than five hundred dollars but not to exceed two
23 thousand dollars on a homeopathic physician who violates this chapter or a
24 board rule. Actions to enforce the collection of these penalties shall be
25 brought in the name of this state by the attorney general or the county
26 attorney in the justice court or the superior court in the county in which
27 the violation occurred. Penalties imposed under this section are in addition
28 to and not in limitation of other penalties imposed pursuant to this chapter.

29 I. If in the opinion of the board it appears that the allegations
30 concerning a homeopathic physician are of a magnitude as to warrant
31 suspension or revocation of the license, the board shall serve on the
32 physician a summons and a complaint fully setting forth the conduct or
33 inability concerned and setting a date, time and place for a hearing pursuant
34 to title 41, chapter 6, article 10 to be held before the board in not less
35 than sixty days from the date of the notice.

36 J. A licensee who wishes to be present at the hearing in person or by
37 representation, or both, shall file a verified answer with the board within
38 twenty days after receiving service of the summons and complaint. The
39 licensee may present witnesses at this hearing.

40 K. The board shall issue subpoenas for witnesses as it may need and
41 for witnesses as the physician may request. Any person refusing to obey a
42 subpoena shall be certified by the board to the superior court in the county
43 in which service was made, and the court may institute proceedings for
44 contempt of court.

1 L. Service of the summons and complaint shall be as required in civil
2 cases.

3 M. Service of subpoenas for witnesses shall be as provided by law for
4 the service of subpoenas generally.

5 N. Any homeopathic physician who after a hearing is found to be guilty
6 of unprofessional conduct or is found to be mentally or physically unable to
7 engage safely in the practice of homeopathic medicine is subject to any
8 combination of censure, probation or suspension of license or revocation of
9 the license for a prescribed period of time or permanently and under
10 conditions that the board deems appropriate for the protection of the public
11 health and safety and just in the circumstances.

12 O. If the board acts to modify any homeopathic physician's
13 prescription writing privileges, it shall immediately notify the Arizona
14 state board of pharmacy of the modification.

15 P. Notwithstanding section 32-2906, subsection A, the board shall
16 deposit, pursuant to sections 35-146 and 35-147, all monies collected from
17 administrative penalties paid pursuant to this section in the state general
18 fund.

19 Q. A letter of concern is a nondisciplinary public document that the
20 board may use in future disciplinary actions.

21 Sec. 17. Title 32, chapter 29, article 3, Arizona Revised Statutes, is
22 amended by adding section 32-2936, to read:

23 32-2936. Patient records

24 A LICENSEE MUST KEEP A PATIENT'S MEDICAL RECORDS AS FOLLOWS:

25 1. IF THE PATIENT IS AN ADULT, FOR AT LEAST SEVEN YEARS AFTER THE LAST
26 DATE THE LICENSEE PROVIDED THE PATIENT WITH MEDICAL OR HEALTH CARE SERVICES.

27 2. IF THE PATIENT IS A CHILD, EITHER FOR AT LEAST THREE YEARS AFTER
28 THE CHILD'S EIGHTEENTH BIRTHDAY OR FOR AT LEAST SEVEN YEARS AFTER THE LAST
29 DATE THE LICENSEE PROVIDED THAT PATIENT WITH MEDICAL OR HEALTH CARE SERVICES,
30 WHICHEVER DATE OCCURS FIRST.

31 3. IF THE PATIENT DIES BEFORE THE EXPIRATION OF THE DATES PRESCRIBED
32 IN PARAGRAPH 1 OR 2, FOR AT LEAST THREE YEARS AFTER THE PATIENT'S DEATH.

33 Sec. 18. Section 41-1092, Arizona Revised Statutes, is amended to
34 read:

35 41-1092. Definitions

36 In this article, unless the context otherwise requires:

37 1. "Administrative law judge" means an individual or an agency head,
38 board or commission that sits as an administrative law judge, that conducts
39 administrative hearings in a contested case or an appealable agency action
40 and that makes decisions regarding the contested case or appealable agency
41 action.

42 2. "Administrative law judge decision" means the findings of fact,
43 conclusions of law and recommendations or decisions issued by an
44 administrative law judge.

1 3. "Appealable agency action" means an action that determines the
2 legal rights, duties or privileges of a party and that is not a contested
3 case. Appealable agency actions do not include interim orders by
4 self-supporting regulatory boards or rules, orders, standards or statements
5 of policy of general application issued by an administrative agency to
6 implement, interpret or make specific the legislation enforced or
7 administered by it, nor does it mean or include rules concerning the internal
8 management of the agency that do not affect private rights or interests. For
9 the purposes of this paragraph, administrative hearing does not include a
10 public hearing held for the purpose of receiving public comment on a proposed
11 agency action.

12 4. "Director" means the director of the office of administrative
13 hearings.

14 5. "Final administrative decision" means a decision by an agency that
15 is subject to judicial review pursuant to title 12, chapter 7, article 6.

16 6. "Office" means the office of administrative hearings.

17 7. "Self-supporting regulatory board" means any one of the following:

18 (a) The ARIZONA state board of accountancy.

19 (b) The state board of appraisal.

20 (c) The board of barbers.

21 (d) The board of behavioral health examiners.

22 (e) The Arizona state boxing commission.

23 (f) The state board of chiropractic examiners.

24 (g) The board of cosmetology.

25 (h) The state board of dental examiners.

26 (i) The state board of funeral directors and embalmers.

27 (j) The Arizona game and fish commission.

28 (k) The board of homeopathic ~~medicat~~ AND INTEGRATED MEDICINE
29 examiners.

30 (l) The Arizona medical board.

31 (m) The naturopathic physicians board of medical examiners.

32 (n) The state board of nursing.

33 (o) The board of examiners of nursing care institution administrators
34 and adult care home managers.

35 (p) The board of occupational therapy examiners.

36 (q) The state board of dispensing opticians.

37 (r) The state board of optometry.

38 (s) The Arizona board of osteopathic examiners in medicine and
39 surgery.

40 (t) The Arizona peace officer standards and training board.

41 (u) The Arizona state board of pharmacy.

42 (v) The board of physical therapy examiners.

43 (w) The state board of podiatry examiners.

44 (x) The state board for private postsecondary education.

- 1 (y) The state board of psychologist examiners.
- 2 (z) The board of respiratory care examiners.
- 3 (aa) The structural pest control commission.
- 4 (bb) The state board of technical registration.
- 5 (cc) The Arizona state veterinary medical examining board.
- 6 (dd) The acupuncture board of examiners.
- 7 (ee) The Arizona regulatory board of physician assistants.
- 8 (ff) The board of athletic training.
- 9 (gg) The board of massage therapy.

10 Sec. 19. Homeopaths; change of licensure renewal date;
11 prorating of fees

12 In the first year of the change to a licensure renewal date that is
13 based on the month in which the board of homeopathic and integrated medicine
14 examiners initially issued a homeopathic physician's license, the executive
15 director shall prorate the annual license renewal fee for each licensee by
16 dividing the annual amount by twelve and multiplying the result by the number
17 of months remaining between January 1, 2009 and the renewal month.

APPROVED BY THE GOVERNOR APRIL 21, 2008.

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